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FILED

AUG 12 2005

RICHARD W. WIEKING
 CLERK, U.S. DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 OAKLAND

12
 13 UNITED STATES DISTRICT COURT
 14 NORTHERN DISTRICT OF CALIFORNIA
 15 OAKLAND DIVISION

16 UNITED STATES OF AMERICA,

17 Plaintiff,

18 v.

NICOLAS ALVARADO-BARAJAS,

Defendant.

No. CR 05-70409 WDB
(WDB)

[PROPOSED] ORDER AND
 STIPULATION WAIVING TIME UNDER
 RULE 5.1 AND EXCLUDING TIME
 FROM JULY 29, 2005 TO AUGUST 19,
 2005 FROM THE SPEEDY TRIAL ACT
 CALCULATION
 (18 U.S.C. § 3161(h)(8)(A))

OAKLAND VENUE

The parties appeared before the Court on July 29, 2005. With the agreement of the parties, and with the consent of the defendant, the Court enters this order (1) scheduling a new preliminary hearing/arraignment date of August 19, 2005 at 10:00 a.m., before the Honorable Wayne D. Brazil; (2) documenting the defendant's waiver of time limits under Federal Rule of Criminal Procedure 5.1; and (3) documenting the exclusion of time under the Speedy Trial Act, 18 U.S.C. § 3161(h)(8)(A), from July 29, 2005 to August 19, 2005. The parties agreed, and the Court found and held, as follows:

[PROPOSED] ORDER AND STIPULATION WAIVING TIME UNDER RULE 5.1 AND EXCLUDING TIME FROM JULY 29, 2005 TO AUGUST 19, 2005 FROM THE SPEEDY TRIAL ACT CALCULATION (18 U.S.C. § 3161(h)(8)(A))
 No. CR 05-70409 WDB

CC: WDB's Stats, Betty Fong (EMC's Clerk)
 Copy to parties served by ECF

1 The defendant waived the time limits for a preliminary hearing under Federal Rule of
2 Criminal Procedure 5.1. Failure to grant the requested continuance would unreasonably deny
3 both defense and government counsel reasonable time necessary for effective preparation, taking
4 into account the exercise of due diligence, and would deny the defendant continuity of counsel.

5 2. Counsel for the defense believes that postponing the preliminary hearing is in his
6 client's best interest, and that it is not in his client's interest for the United States to indict the
7 case before the August 19, 2005 preliminary hearing date. The parties are investigating a pre-
8 indictment disposition of the case, and expect to be able to resolve the case in the near future.

9 3. The defendant agreed to an exclusion of time under the Speedy Trial Act. Failure to
10 grant the requested continuance would unreasonably deny both government and defense counsel
11 reasonable time necessary for effective preparation, taking into account the exercise of due
12 diligence, and would deny the defendant and the government continuity of counsel.

13 4. Given these circumstances, the Court found that the ends of justice served by
14 excluding the period from July 29, 2005 to August 19, 2005, outweigh the best interest of the
15 public and the defendant in a speedy trial. *Id.* § 3161(h)(8)(A).

16 5. Accordingly, and with the consent of the defendant, the Court ordered that the period
17 from July 29, 2005 to August 5, 2005 be excluded from Speedy Trial Act calculations under 18
18 U.S.C. § 3161(h)(8)(A) & (B)(iv).

19 4. The Court scheduled a new preliminary hearing/arraignment date of August 19, 2005,
20 at 10:00 a.m., before the Honorable Wayne D. Brazil.

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28 [PROPOSED] ORDER AND STIPULATION WAIVING TIME UNDER RULE 5.1 AND
EXCLUDING TIME FROM JULY 29, 2005 TO AUGUST 19, 2005 FROM THE SPEEDY
TRIAL ACT CALCULATION (18 U.S.C. § 3161(h)(8)(A))
No.CR 05-70409 WDB

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2 IT IS SO STIPULATED.

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4 DATED: 8/1/05

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6 DATED: 8/1/05

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10 IT IS SO ORDERED.

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12 DATED: 8/12/05

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[REDACTED] ORDER AND STIPULATION WAIVING TIME UNDER RULE 5.1 AND EXCLUDING TIME FROM JULY 29, 2005 TO AUGUST 19, 2005 FROM THE SPEEDY TRIAL ACT CALCULATION (18 U.S.C. § 3161(h)(8)(A))
No.CR 05-70409 WDB